

SIKKIM

GOVERNMENT



GAZETTE

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No. 6/LD/P/2009

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NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 4th day of August, 2009 is hereby published for general information:-

THE SIKKIM COOPERATIVE SOCIETIES (AMENDMENT) ACT, 2009

(Act No. 6 of 2009)

AN

ACT

further to amend the Sikkim Cooperative Societies Act, 1978.

Be it enacted by the Legislature of Sikkim in Sixtieth Year of the Republic of India as follows:-

**Short title extent
and commencement.**

1. (i) This Act may be called the Sikkim Cooperative Societies (Amendment) Act, 2009.
- (2). It extends to the whole of the Sikkim.
- (3). It shall come into force at once.

**Amendment
of Section 2.**

2. In the Sikkim Cooperative Societies Act, 1978(hereinafter referred to as 'the principal Act'); in section 2, -
 - (i) for the existing clause (a), the following shall be substituted namely:-
 - (a) "National Bank" means the National Bank for Agriculture and Rural Development established under Section 3 of National Bank for Agriculture and Rural Development Act 1981;
 - (ii) for the existing clause (e), the following shall be substituted, namely :-
 - (e) "Cooperative year" means the period beginning from 1st day of April or the date of commencement of business or

the date of registration and ending the 31st day of March for the purpose of drawing up the balance sheets of registered societies as the case may be."

- (iii) for the existing clause (f) the following shall be substituted, namely:-
- (f) **'Deposit Insurance and Credit Guarantee Corporation'** means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961'.
- (iv) for the existing clause (g) the following shall be substituted, namely:-
- (g) **'Apex Society'** means a society, where not less than five members of which are themselves societies.
Note :- the word 'chairman / chairperson' shall be used only by the Apex societies and those societies other than the Apex societies shall use the word President for the word Chairman after the enactment of this Act.
- (v) for the existing clause (i) the following shall be substituted, namely;
'Self Help Group', including 'Joint Liability Group' means a group of individuals willing to undertake economic activity/ies individually or jointly, whether incorporated or not and whether established or not by or under any law.
- (vi) for the existing clause (k) the following shall be substituted, namely:-
'Nominal Member' means a person admitted as a member by paying the admission fee and shall not be having any voting rights and shall not be entitled to dividend declared.
- (vii) for the existing clause (o) the following shall be substituted, namely:-
'Primary Agricultural Credit Society' means a cooperative society as defined under clause (cciv) of Section 5 of Banking Regulation Act, 1949(Central Act 10 of 1949) and includes a Multipurpose cooperative society.
- (viii) for the existing clause (v) the following shall be substituted, namely:-
"State Cooperative Bank" means an apex society engaged in the business of banking;
- (ix) after clause (v) the following clauses shall be inserted, namely :-
- (w) **"Chartered Accountant"** means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949)
- (x) **"Cooperative credit structure society"** includes a State Cooperative Bank and a primary agricultural credit society.
- (y) **"Multipurpose Cooperative Society"** means a primary society the object of which is to provide various services including services related to savings, credit, business, industry and consumer durables to its members.
- (z) **"Primary society"** means a cooperative society whose membership consists exclusively of individuals and self help groups.

***Amendment
of Section 3.***

3. In the principal Act, in sub-section (4) of section 3, for the word 'federal' the word 'apex' shall be substituted.

***Amendment
of Section 5.***

4. In the principal Act, in section 5,
- (i) in clause (a), for the word 'federal' the word 'apex' shall be substituted,
 - (ii) after clause (b), the following clause shall be inserted, namely:-
 - (c) **No primary agricultural credit society, or its federation or association(except those which are permitted to act as a bank under Banking Regulation Act,1949(Central Act No.10 of 1949) shall be registered with the words 'bank' or any other derivative of the word 'bank' in its registered name or shall use the same as a part of its name:**

Provided that where any primary agricultural credit society or its federation or association(except those which are permitted to act as a bank under Banking Regulation Act,1949(Central Act No.10 of 1949) has been registered or using the same as a part of its name before the commencement of the Sikkim Cooperative Societies (Amendment) Bill,2009 with the word 'bank' or any of its derivatives in its registered name, it shall within three months from the date of such commencement, change its name so as to remove the word 'bank' or its derivative, if any, from its name:

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society forthwith.

***Amendment
of Section 8.***

5. In the principal Act, in section 8, (1) in sub-section (1) after the words 'its bylaws' the following words shall be added, namely:- **'within one month from the date of submission of application to the Registrar'.**

(ii) in sub-section (2), for the words 'six', the word one shall be substituted.

***Insertion of
new Section 8 A.***

In the principal Act, after section 8, the following new section 8A shall be inserted, namely;- **"Affiliation" 'A cooperative credit structure society may affiliate or disaffiliate with an apex society of its choice:**

Provided that before dis-affiliation, the society shall discharge its financial liability, if any, to the society from which it is dis-affiliating.

***Amendment
of Section 11.***

6. In the principal Act, in section 11,
- (i) in sub-section (3), after the word "amendment" and before the words "together with", the words **"within one month"** shall be inserted;

- (ii) in sub-section (4), after the words "therefore" and before the words "to the society", the words "within one month" shall be inserted.

***Amendment
of Section 12.***

7. In the principal Act, in section 12 after the words "duly made by the society" the following proviso shall be inserted, namely:

"Provided that the provisions of this section shall not apply to a cooperative credit structure society".

***Insertion of
new Section 19 A.***

8. In the principal Act, after section 19, the following new section 19A shall be inserted, namely:-

"Financial and Internal Administrative matters"

(1) **'Notwithstanding anything contained in this Act, rules or bye-laws made there under or any other law for the time being in force, a cooperative credit structure society shall have autonomy in all financial and internal administrative matters including the following areas:-**

- (a) **Interest rates on deposits and loans, in conformity with the guidelines of the Reserve Bank;**
 - (b) **Borrowing and Investments;**
 - (c) **Loan policies and individual loan decisions;**
 - (d) **Personnel policy, staffing, recruitment, posting and compensation to staff;**
 - (e) **Internal control systems, appointment of auditors and compensation for the audit'.**
- (2) **'A cooperative credit structure society shall have the freedom of entry and exit at any tier without mandatory restrictions of geographical boundaries for its operation'.**

***Amendment
of Section 20.***

9. In the principal Act, in sub-section (1) of section 20 after clause (d) the following clause shall be inserted, namely:-
"(e) any self help group".

***Amendment
of Section 21.***

10. In the principal Act, in sub-section (3) of section 21, after the words "member of another" and before the words "credit society", the word **'primary'** shall be inserted.

***Amendment
of Section 22.***

11. In the principal Act, in section 22, -(i) in clause (c) the following proviso shall be inserted, namely:-

'Provided that the provisions of this clause do not apply to a primary agricultural credit society'.

- (ii) after clause (c), the following clause shall be inserted, namely:-

- (d) **where a self-help group is a member, a person nominated by such self-help group, may vote on its behalf in the affairs of the society'.**

***Amendment
of Section 31.***

12. In the principal Act, in sub-section (3) of section 31, after clause (e) the following clause shall be inserted, namely:-
- (f) **Notwithstanding anything contained in this Act, no person shall be elected, nominated or co-opted or allowed to continue as a member of the committee of a cooperative credit structure society, if he,**
- (i) **is a person who represents a society other than a primary agricultural credit society on the committee of a State Cooperative Bank if such society he represents has committed a default towards the payments of such Bank for a period exceeding ninety days;**
- (ii) **is a person who committed a default towards the payments to a primary agricultural credit society or represents a primary agricultural credit society on the committee of a State Cooperative Bank if such society he represents has committed a default towards the payments of such bank for a period exceeding one year unless the default is cleared;**
- (iii) **is a person, who represents a society whose committee is superceded or has ceased to be a member on the committee of his own society'.**

***Amendment
of Section 34.***

13. In the principal Act, in section 34 after sub-section (2) the following sub-sections shall be inserted, namely:-
- (3) **The Returning Officer under sub-section (1) of Section (34) shall within 90(ninety)days before expiry of term of the committee, make arrangements for the constitution of a new committee in accordance with the provisions of this Act and rules and bye-laws made there under.**
- (4) **Where any Committee has ceased to hold office and no Committee has been constituted in accordance with the provisions of this Act and Rules and bye-laws made there under, the Registrar, may, by an order in writing, appoint an Administrator for such period as may, from time to time, be specified in the order and the Administrator shall before the expiry of the period of his appointment, arrange for the constitution of a new Committee in accordance with the provisions of this Act and rules and bye-laws made there under:**

Provided that the total period for which an Administrator may be appointed shall not in any case exceed 60 days.

***Amendment
of Section 36.***

14. In the principal Act, in clause (c) of section 36, for the words "a federal society" the words **'an Apex society'** shall be substituted.

***Amendment
of Section 38.***

15. In the principal Act, in section 38, in sub-section (1), after clause (ii), the following clauses shall be inserted, namely;-"(iii) **Notwithstanding anything contained in sub-section (1) of this Section, there shall**

'Provided that while making investments, a State Cooperative Bank will follow guidelines stipulated by Reserve Bank.'

***Amendment
of Section 61.***

24. In the principal Act, in section 61, -(1) in sub-section (1), the words **'with the general or special sanction of the Registrar'**; shall be omitted;
(2) after the first proviso the following proviso shall be inserted, namely:-

'Provided further that the cooperative credit structure society may take appropriate decision regarding its loan policies including individual loan decision to its member, keeping in view the interest of the society and its members'.

(3) after sub-section (2); the following new sub-section shall be inserted, namely:-

"(3) (a) An individual or group depositor in a primary agricultural credit society shall become a member of the society under sub-section (1) of Section 20 by subscribing at least the minimum share capital specified in the bye-laws and on holding a minimum deposit as may be prescribed by the Government from time to time for a continuous minimum period as may be prescribed preceding the date of notification of election shall have full voting rights.

(b) An individual or a group borrower shall become a member of a primary agricultural credit society under sub-section (1) of Section 20 by subscribing the prescribed share capital specified in the bye-laws and shall have full voting rights.

(c) Every group depositor or group borrower admitted as a member under sub-section (1) of Section 20 shall be entitled to vote through one delegate nominated by the group:

Provided that a depositor member of a primary agricultural credit society shall be eligible for loans on par with other members.

"(4) 'The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the primary agricultural credit societies in consultation with the National Bank."

***Amendment
of Section 62.***

25. In the principal Act, Section 62 shall be renumbered as sub-Section(1) of that section and after the sub-section (1) as so renumbered the following sub-sections shall be inserted, namely:-

(2) Notwithstanding anything contained in sub-section (1), a cooperative credit structure society shall have freedom to raise loan from any bank or Reserve Bank regulated financial

institution, refinance from National Bank or any other refinance agencies directly or through any institution of its choice and not necessarily from only the society to which it is affiliated.

***Amendment
of Section 63.***

26. In the principal Act, in section 63, after the words
“Transactions of a society” and before the words “with any person” the words ‘except State Cooperative Bank’ shall be inserted.

***Amendment
of Section 64.***

27. In the principal Act, in section 64,(i) in sub-section (1),the following clauses shall be inserted, namely:-

(a) A primary agricultural credit society shall get its accounts audited at least once in each year by the Registrar or by a person authorized by him by general or special order in writing in this behalf or by a Chartered Accountant appointed by its committee.

(b) Notwithstanding anything contained in sub-section (1), the accounts of a State Cooperative Bank shall be audited and certified by Chartered Accountants appointed by its committee from the panel approved by the National Bank.

(c) The Registrar shall get conducted a special audit of a State Cooperative Bank on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated by the Reserve Bank.

(ii) In sub-section (5), after the words, “under sub-section (1) and before the words “to audit the accounts”, the words ‘or the auditor or chartered accountant appointed under clauses (a) (b) and (c) shall be inserted.

***Amendment
of Section 71.***

28. In the principal Act, in section 71,(i) in sub-section (1), before the words where the course of an audit, the words ‘Except in case of Cooperative credit structure society’; shall be inserted.

(ii) after sub-section (3) the following sub-sections shall be inserted, namely:-

(4)The Registrar shall ensure that Reserve Bank’s regulatory prescriptions in the case of a State Cooperative Bank including recommendation for super session of the committee or winding up of a State Cooperative Bank and appointment of the Administrator or the Liquidator, as the case may be, are implemented within one month from the date of receipt of the advice from the Reserve Bank.

(5) The Registrar shall, within two months of being advised by the Reserve Bank or the National Bank, ensure removal of Chief Executive Officer of a State Cooperative Bank who does not fulfill eligibility criteria specified by the Reserve Bank.

(6) The Registrar shall, within two months of being advised so by the Reserve Bank or the Nation Bank, ensure removal of any person elected or co-opted as a member of the Board under sub-section (1A) of Section 90 without having the requisite knowledge or experience as stipulated by the Reserve Bank.

***Amendment
of Section 88.***

29. In the principal Act, in sub-section (4) of section 88, the words, 'or outside Sikkim' shall be omitted and for the words 'the previous sanction of the Registrar' the words 'the approval of RBI' shall be substituted.

***Amendment
of Section 89.***

30. In the principal Act, section 89 shall be omitted.

***Amendment
of Section 90.***

31. In the principal Act, for the existing section 90 the following shall be substituted, namely:- "90 (1) The Board of a State Cooperative Bank shall consist of 11 members of whom 1 shall be nominated by the Government, 8 shall be representatives of primary agricultural credit societies of which 1 shall be woman representative elected from amongst the women Presidents of primary agricultural credit societies and if no such woman is elected one Woman Director having some experience and background about cooperative to be co-opted by the Board of the Directors of the State Cooperative Bank, and one shall be representative of members other than societies to be elected or nominated as per the byelaws of the Bank, and a Managing Director.

(2) There shall be at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank on the committee of a State Cooperative Bank and in case such number of elected directors do not, in the opinion of Reserve Bank or National Bank, possess special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Committee of a State Cooperative Bank shall co-opt such number of professionals with full voting rights irrespective of-

- (i) the limit on the number of members of the committee under this Act or rules framed there under or its byelaws,
- (ii) whether such professional is a member of the society or not.

(3) Notwithstanding anything contained in this Act, the Chief Executive Officer and the members of the committee of a State Cooperative Bank shall fulfill the criteria stipulated by the Reserve Bank for the time being in force and such person who, in the opinion of the Reserve Bank or the National Bank, does not fulfill the criteria stipulated by the Reserve Bank shall be removed on advice of the Reserve Bank or the National Bank.

**Omission
of Section 96**

32. In the principal Act, section 96 shall be omitted.

**Amendment
of Section 96 (A).**

33. In the principal Act, (i) in section 96A (i); the words '**subject to the provisions of section 89**' shall be omitted".
(ii) the sub-section (2) of section 96A shall be omitted.

**Amendment
of Section 101.**

34. In the principal Act, in section 101, (i) in sub-section (2) for the words "two hundred rupees" the words 'Five thousand rupees' and for the words and figure "rupees 25" the words "rupees one hundred" shall respectively be substituted.

(ii) in sub-section (3) for the words "two hundred rupees" the words "five thousand rupees" shall be substituted;

(iii) in sub-section (4) for the words "two hundred rupees", the words "two thousand rupees" shall be substituted;

(iv) in sub-section (5) for the words 'five hundred rupees' the words 'five thousand rupees' and for the words and figure 'Rs. 25' the words "rupees one hundred" shall respectively be substituted;

(v) in sub-section (6) for the words 'two hundred rupees' the words two thousand rupees shall be substituted;

(vi) in sub-section (7) for the words 'two hundred rupees' the words two thousand rupees shall be substituted;

(vii) in sub-sections (8) and (9), for the words five hundred rupees wherever they occur the words five thousand rupees or 10% of the share money collected whichever is less' shall be substituted;

(viii) in sub-section (10) for the words one thousand rupees the words ten thousand rupees shall be substituted.

**Amendment
of Section 111.**

35. In the principal Act, section 111 shall be renumbered as sub-section (1) of that section and after the sub-section (1) as so renumbered the following sub-section shall be inserted, namely:-

(2) No cooperative credit structure society shall be exempted by the Government from the application of the provisions of this Act without the prior approval of the Reserve Bank or the National Bank.

By Order.

**R.K. PURKAYASTHA (SSJS)
LR-cum-SECRETARY
Law Department**

File No. 16 (82)/ LD/P/2009

